



## Maricopa County Attorney

ANDREW P. THOMAS

### MEMORANDUM

**To:** William Thornton, Director Solid Waste Department

**From:** Kevin S Costello, Deputy County Attorney  
Division of County Counsel

**Copy:** Rita Neill - with enclosure

**Subject:** Cave Creek Landfill Consent Order

**Date:** July 6, 2005

---

Attached is a copy of the fully executed Consent Order between Maricopa County and the Arizona Department of Environmental Quality concerning the Cave Creek Landfill. The effective date of the order is June 29, 2005. Compliance deadlines run from this date. Please be aware that the order carries stipulated penalties for failure to meet any of its terms.

If you have any questions concerning this order please do not hesitate to contact me.

KSC/sc

Case reference # (RM 00-012)

S:\COUNSEL\civil\Clients Fiscal 04-05\Solid Waste\Cave Creek- Final Consent Order trans mem2.doc

Division of County Counsel

222 North Central Ave., Suite 1100 • Phoenix, Arizona 85004 • (602) 506-8541 • (Fax) 506-8567



BEFORE THE DIRECTOR OF THE  
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

CONSENT ORDER

Cave Creek Closed Municipal Solid Waste  
Landfill located at 8.3 miles east of I-17  
approximately 1/2 mile south of Carefree  
Highway, Phoenix, Maricopa County, Arizona

Docket No. S-102-05

ADEQ Identification Number 30604

To: Maricopa County Solid Waste Management Department (MCSWMD) in its capacity as owner  
and operator of Cave Creek Closed Municipal Solid Waste Landfill (Cave Creek Landfill) located at  
8.3 miles east of I-17 approximately 1/2 mile south of Carefree highway, Phoenix, Maricopa County,  
Arizona.

RECITALS

MCSWMD acknowledges that no promise of any kind or nature whatsoever, was made to  
induce it to enter into this Consent Order, and MCSWMD has done so voluntarily.

MCSWMD acknowledges that by entering into this Consent Order, it does not resolve any  
liability it may have for civil penalties for violations of any State or Federal environmental law.

By entering into this Consent Order, MCSWMD does not admit to any civil or criminal liability,  
or waive any right including but not limited to the assertion of any defense available to MCSWMD under  
applicable law. Further, MCSWMD does not admit, and both the Arizona Department of  
Environmental Quality ("ADEQ") and MCSWMD retain the right to controvert in any subsequent  
proceeding except a proceeding to implement or enforce this Consent Order, the validity of any Findings  
of Fact or Conclusions of Law contained in this Consent Order.

The undersigned representative of MCSWMD certifies that he is fully authorized to execute  
this Consent Order on behalf of MCSWMD and to legally bind MCSWMD to this Consent Order.

Initial mk

1 MCSWMD admits to the jurisdiction of the Director of ADEQ.

2 Except as to the right to controvert the validity of any Findings of Fact or Conclusion of Law  
3 contained in this Consent Order in a proceeding other than to enforce this Consent Order, MCSWMD  
4 consents to the terms and entry of this Consent Order and agrees not to contest the validity or terms of  
5 this Consent Order in any subsequent proceeding.

6 The Consent Order replaces in its entirety the Consent Order of the same docket number  
7 executed by the parties and effective August 15, 1999.

8 **THEREFORE, IT IS HEREBY ORDERED** as follows:

9 **I. JURISDICTION**

10 The Director of ADEQ has jurisdiction over the subject matter of this action and is authorized  
11 to issue this Consent Order pursuant to the Arizona Revised Statutes ("A.R.S.") §§ 49-781.

12 **II. FINDINGS**

13 **THE DIRECTOR HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**  
14 **CONCLUSIONS OF LAW:**

15 **A. Findings of Fact**

16 1) The Cave Creek Landfill is owned and operated by MCSWMD and is located  
17 approximately one-half mile south of Carefree Highway, about three miles west of Cave Creek Road,  
18 and 8 miles east of Interstate 17 in Maricopa County, Arizona.

19 2) A routine inspection conducted by the Solid Waste Inspection & Compliance Unit (SWICU)  
20 on May 11, 1998 revealed that the groundwater monitoring at the landfill monitoring well MW1  
21 indicated the presence of trichloroethylene (TCE) in excess of the Aquifer Water Quality Standard  
22 (AWQS) of 0.005 parts per million (ppm), and at statistically significant levels above the background  
23 level of 0.0 ppm TCE during the December 1997 monitoring event.

24 3) Based on the May 11, 1998 inspection, the SWICU issued a Notice of Violation (NOV)  
25 on July 13, 1998 for:

26 a) failing to place a notice of the exceedance in the operating record and to notify  
27 ADEQ that a notice has been placed in the operating record; and



1 b) failing to establish an assessment monitoring program or demonstrate that the  
2 exceedance was caused by some condition other than the landfill within ninety (90) days  
3 of detecting the exceedance.

4 4) Additional groundwater sampling conducted on July 18, 1998, and July 28, 1998, indicated  
5 elevated levels of TCE in excess of the AWQS in monitoring wells MW1 and MW2.

6 5) On September 16, 1998 and October 23, 1998, SWICU received a letter from MCSWMD  
7 indicating that the groundwater levels in MW1 and MW2 were too low to obtain adequate samples

8 6) On November 17, 1998, and March 26, 1999, MCSWMD obtained groundwater samples  
9 from a production well located at the north end of the landfill which indicated elevated levels of TCE in  
10 excess of the AWQS, and at statistically significant levels above the background level of 0.0 ppm TCE.  
11 However, MCSWMD was unable to sample monitoring wells MW1 and MW2 due to continued low  
12 groundwater levels.

13 7) On August 15, 1999, MCSWMD entered into an administrative order (Docket# S-189-99)  
14 with ADEQ that required MCSWMD to characterize the nature and source of groundwater  
15 contamination.

16 8) MCSWMD failed to submit a plan to install a new monitoring well or other means of  
17 collecting a down gradient water sample after determining that there was insufficient water in the  
18 monitoring wells to collect adequate samples.

19 9) In a letter dated October 14, 1999, SWICU informed MCSWMD that they failed to  
20 adequately demonstrate that the TCE contamination in groundwater at the landfill is the result of a source  
21 other than the Cave Creek Landfill.

22 10) To date MCSWMD has not successfully demonstrated that the groundwater contamination  
23 at Cave Creek Landfill is due to a source other than the Cave Creek Landfill nor have any attempts  
24 been made to characterize the extent of the contamination.

25 B. Conclusions of Law

26 1) Cave Creek Landfill accepted household solid waste as defined in Arizona Revised Statutes  
27 (A.R.S.) § 49-701(14) and 40 CFR 258.2, incorporated into state law by A.R.S. 49-761.B, and is

1 a municipal solid waste landfill as defined in A.R.S. § 49-701(20) and 40 CFR 258.2. Cave Creek  
2 Landfill ceased accepting waste in 1999 and is a closed solid waste facility as defined in A.R.S. § 49-  
3 701.3.

4 2) The AWQS for TCE is 0.005 ppm as established by Arizona Administrative Code (A.A.C.)  
5 R18-11-406.C.

6 3) The MCSWMD violated section III, paragraph C, subsection 1 of Consent Order docket  
7 number S-189-99 by failing to submit a plan to install a new monitoring well or other means of collecting  
8 a down gradient water sample after determining that there was insufficient water in the monitoring wells  
9 to collect adequate samples.

10 4) The MCSWMD violated 40 CFR 258.54(c) by failing to begin assessment monitoring within  
11 ninety (90) days of detecting a statistically significant increase of TCE over background levels, and by  
12 failing to successfully demonstrate within ninety (90) days that a source other than the landfill caused the  
13 contamination

14 5) The MCSWMD violated 40 CFR 258.55(g)(1)(i-ii) by failing to characterize the nature and  
15 extent of groundwater contamination by installing at least one additional monitoring well at the facility  
16 boundary in the direction of contaminant migration.

17 6) The MCSWMD violated section III, paragraph G, subsection 4 of Consent Order docket  
18 number S-189-99 by failing to demonstrate that the groundwater contamination at Cave Creek Landfill  
19 is due to a source other than the Cave Creek Landfill and to characterize the extent of the contamination.

20 7) The MCSWMD violated 40 CFR 258.55(g)(iv) and 40CFR 258.56. by failing to initiate an  
21 assessment of corrective measures within ninety (90) days of finding a statistically significant level of TCE  
22 exceeding AWQS.

### 23 **III. COMPLIANCE SCHEDULE**

24 **THE DIRECTOR HEREBY ORDERS** and MCSWMD agrees to comply with the provisions of  
25 this Consent Order as follows:

26 A. Within sixty (60) calendar days of the effective date of the amended Consent Order,  
27 MCSWMD shall submit a groundwater characterization work plan to ADEQ for review and approval



1 that characterizes the extent of the groundwater contamination in accordance with 40 CFR  
2 §258.55(g)(1). The groundwater characterization work plan shall include at a minimum:

3 1.) Landfill information including but not limited to: a) the property owner if different than the  
4 landfill operator, b) landfill name, c) permit number if applicable, d) street address including city and zip  
5 code, e) county, and f) the legal description of the property.

6 2.) Name of the environmental consulting firm that will be conducting the groundwater  
7 characterization on behalf of MCSWMD including: a) name of the firm contact, b) complete address,  
8 c) daytime telephone and d) facsimile number.

9 3.) Landfill history, potential contaminant sources, pathways and receptors.

10 4.) Dates and means by which the groundwater contamination was originally discovered.

11 5.) A description and conclusion of all investigative activities initiated prior to the  
12 submittal of this work plan.

13 6.) Known or estimated depth to groundwater and groundwater flow direction along with the  
14 date and source of this information.

15 7.) All available site specific geologic and hydrologic information with the source and date of  
16 this information.

17 8.) A list of all waters of the United States located within one mile radius of the landfill.

18 9.) A list of all wells registered with the Arizona Department of Water Resources  
19 (ADWR), and any other known or observed wells located within one mile of the facility. For ADWR  
20 registered wells, the list shall include the Arizona Department of Water Resources registration number,  
21 water use category, reported water level and drill date if recorded.

22 10.) Maps and diagrams including but not limited to site location map drawn to scale  
23 which shall include a map scale. Existing groundwater wells, streets, roads, alleys or other thoroughfares  
24 with labels and an arrow denoting groundwater flow direction of the aquifer being investigated.

25 11.) Adjacent land uses, known structures surrounding the landfill which could affect or  
26 be affected by the release including utility corridors, sewer systems, irrigation canals, drainage channels,  
27 and transportation avenues.

1 12.) Tabulations of laboratory analytical results and water level data previously acquired  
2 to investigate the release. If the laboratory analytical data have not been previously submitted to  
3 the Department, all laboratory analytical reports and chain of custody forms shall be included. Tabulation  
4 of laboratory analytical results shall include the groundwater sampling analytical  
5 results including at a minimum the sample identification number and the date each sample was  
6 taken. Monitor well water level measurement data that shall include, at a minimum for each  
7 measurement: a) monitor well identification number, b) date of measurement, c) elevation at the  
8 of top of casing, d) screened interval, e) depth to water, and e) the water level elevation.

9 13.) Information on pumping and production wells within a two mile radius of the boundary of  
10 the landfill. Information must include pumping data, location, well owner and an interpretation of how  
11 pumping may impact the flow direction of groundwater under the landfill.

12 14.) A proposed work schedule for initiating, implementing, and completing the  
13 groundwater contaminant characterization activities under the work plan. The schedule shall  
14 identify the major activity increments of the work plan, including interim reporting to the  
15 Department, and include for each increment an estimate of the time for completion, following the  
16 Department approval of the work plan.

17 B. Within ninety (90) calendar days from the affective date of this order, MCSWMD shall  
18 submit a Well Drilling Plan that provides information on the location and depth of additional groundwater  
19 monitoring wells that will be installed in order to determine the full extent of contamination present. At  
20 least one additional well must be installed in the direction of contaminant migration.

21 C. Within sixty (60) calendar days of receipt of ADEQ's approval of the groundwater  
22 characterization work plan, MCSWMD shall implement groundwater characterization activities in  
23 accordance with conditions and time frames established in the ADEQ approved groundwater  
24 characterization work plan.

25 D. Within sixty (60) calendar days of completion of the ADEQ approved groundwater  
26 characterization work plan, MCSWMD shall notify all persons who own the land or reside on the land  
27  
28



1 that directly overlies any part of the plume of contamination if groundwater contamination migrated off-  
2 site in accordance with 40 CFR §258.55(g)(1)(iii).

3 E. Within ninety (90) calendar days of completion of the ADEQ approved groundwater  
4 characterization work plan, MCSWMD shall submit a report that includes: a) results of all tasks and  
5 deliverables included in the groundwater characterization work plan that illustrate the nature, source and  
6 extent of groundwater contamination, and b) a remedial action work plan that  
7 evaluates the effectiveness of potential corrective measures in accordance with 40 CFR §258.56 and  
8 based on the results of this evaluation, selects a proposed remedy that meets the standards described  
9 in 40 CFR §258.57. The remedial action work plan must include a reasonable schedule for initiating and  
10 completing the remedial activities taking into consideration the factors set forth  
11 in 40 CFR §258.57(d)(1) through (8). MCSWMD may propose that selection of a remedy is not  
12 necessary if it can successfully demonstrate that one of the conditions described in 40 CFR §258.57(e)  
13 is present at the Cave Creek Landfill.

14 F. The results of the corrective measures assessment shall be discussed in a public meeting  
15 with interested and affected parties in accordance with 40 CFR §258.56(d). The public meeting shall  
16 be scheduled at a time mutually agreed upon by ADEQ and MCSWMD.

17 G. Within ninety (90) calendar days of receipt of approval of the remedial action work plan  
18 by ADEQ, MCSWMD shall implement the corrective measures in accordance with the conditions and  
19 time frames specified in ADEQ approved remedial action work plan.

20 H. Upon approval by ADEQ, the groundwater characterization work plan and remedial  
21 action work plan shall be incorporated by reference into and enforceable under this order.

22 I. If after review of the reports and plans required by this compliance schedule,  
23 ADEQ determines that any portion of the work has not been completed in accordance with the ADEQ  
24 approved groundwater characterization work plan or remedial action work plan, ADEQ  
25 will notify MCSWMD in writing of the activities/deficiencies that must be undertaken/corrected to  
26 complete the portion of the work. ADEQ will set forth in the notice, a schedule for performance  
27  
28



1 of such activities. MCSWMD shall perform all activities/modifications described in the notice in  
2 accordance with the specifications, schedules established therein. Upon completion of these activities,  
3 MCSWMD shall submit a revised written report(s) and certification for the completed portion of the  
4 work.

5 J. If pursuant to 40 CFR 258.55g(2), MCSWMD submits documentation that a source  
6 other than Cave Creek Landfill caused the groundwater contamination described in findings of fact  
7 section II.A.2, 4 & 6 (Alternative Source Demonstration), the requirements of Section III will be  
8 tolled until ADEQ submits its written approval or disapproval of this demonstration to MCSWMD.  
9 If ADEQ disapproves the Alternative Source Demonstration, the toll on the requirements of Section  
10 III will be lifted upon receipt by MCSWMD of the written disapproval by ADEQ. The deadline for  
11 the next uncompleted compliance condition within Section III will be calculated from the date of  
12 receipt by MCSWMD of the written disapproval. Any subsequent submittals of Alternative Source  
13 Demonstrations must contain data and/or data analysis not submitted in previous Alternative Source  
14 Demonstrations before it will be reviewed by ADEQ.  
15 Upon receipt of written notification from ADEQ that MCSWMD has demonstrated to the satisfaction  
16 of ADEQ that the source of the groundwater contamination is not the Cave Creek Landfill, the  
17 provisions of this Consent Order shall be deemed satisfied and this Consent Order shall be terminated  
18 in accordance with Section XV of this Consent Order.

#### 19 20 **IV. STATUS REPORTS**

21 A. MCSWMD agrees to submit a written monthly status report to ADEQ within fifteen  
22 (15) calendar days after the last day of the reporting month, until termination of this Consent Order.  
23 The first monthly status report shall be due forty five (45) days from the effective date of this Consent  
24 Order for the calendar month ending within thirty (30) days after the effective date of the Consent  
25 Decree. Each written status report shall describe what measures have been taken under Section III,  
26 of this Consent Order, and shall certify when compliance with the requirements of Section III of this  
27  
28

1 Order has been achieved. Each report shall be accompanied by evidence of compliance including,  
2 as appropriate, submittal of documents, photographs or copies  
3 of any other supporting information that MCSWMD deems necessary.

4 B. ADEQ will review the status reports and relay any disputes in writing to MCSWMD.  
5 MCSWMD shall incorporate all required modifications, changes or other alterations, as requested  
6 by ADEQ, within a reasonable time specified by ADEQ.

7 **V. VIOLATIONS OF ORDER/STIPULATED PENALTIES**

8 A. Under A.R.S. § 49-783 violation of this Consent Order subjects MCSWMD to civil  
9 penalties of up to \$ 1000 per day per violation not to exceed \$ 15,000 for each violation. ADEQ and  
10 MCSWMD agree that the calculation of civil penalties for violation of this Consent Order would be  
11 very difficult.

12 B. ADEQ and MCSWMD therefore agree that if MCSWMD fails to comply with any  
13 requirement of this Consent Order, MCSWMD shall pay a stipulated penalty pursuant to the schedule  
14 below:

<u>Period of Failure to Comply</u>	<u>Penalty Per Day of Violation</u>
1 <sup>st</sup> to 45 <sup>th</sup> day	\$ 500 per day per violation
46 <sup>th</sup> to 90 <sup>th</sup> day	\$ 800 per day per violation
After 90 days	\$ 1000 per day per violation

19 C. Except as otherwise provided herein, stipulated penalties shall begin to accrue on the  
20 day that performance is due or that a violation of this Consent Order occurs and shall continue to  
21 accrue until correction of the act of noncompliance is completed. Neither issuance by ADEQ nor  
22 receipt by MCSWMD of a Notice of Violation of the terms and conditions of this Consent Order are  
23 conditions precedent to the accrual of stipulated penalties.

24 D. Stipulated penalty payments shall be made pursuant to a civil settlement (e.g., Consent  
25 Judgment) with ADEQ filed in a court of competent jurisdiction. If ADEQ and MCSWMD are  
26 unable to reach agreement for payment of stipulated penalties under a civil settlement, or if  
27



1 MCSWMD fails to make payment of stipulated penalties due under a civil settlement, ADEQ may file  
2 a civil action seeking the maximum civil penalty allowed under  
3 Federal or State law for violation of this Consent Order.

4 E. The stipulated penalties required by this Consent Order shall be in addition to other  
5 remedies or sanctions available to ADEQ by reason of any failure by MCSWMD to comply with the  
6 requirements of Federal or State laws. The payment of stipulated penalties shall not relieve  
7 MCSWMD from compliance with the terms and conditions of this Consent Order or Federal or State  
8 laws, nor limit the authority of the State to require compliance with the Consent Order or State law.

#### 10 VI. COMPLIANCE WITH OTHER LAWS

11 A. This Consent Order does not encompass issues regarding releases, contamination,  
12 sources, operations, facilities or processes not expressly covered by the terms of this Consent Order,  
13 and is without prejudice to the rights of the State of Arizona or MCSWMD, arising under any federal  
14 or Arizona environmental statutes and rules with regard to such issues.

15 B. Nothing in this Consent Order shall constitute a permit of any kind, or a modification  
16 of any permit of any kind, or an agreement to issue a permit of any kind under federal, state or local  
17 law, or relieve MCSWMD in any manner of its obligation to apply for, obtain, and comply with all  
18 applicable permits. Nothing in this Consent Order shall in any way alter, modify or revoke federal,  
19 state, or local law, or relieve MCSWMD in any manner of its obligation to comply with such laws.  
20 Compliance with the terms of this Consent Order shall not  
21 be a defense to any action to enforce any such permits or laws.

#### 23 VII. FORCE MAJEURE

24 A. MCSWMD shall perform all the requirements of this Consent Order according to the  
25 time limits set forth herein, unless performance is prevented or delayed by events which constitute a  
26 *force majeure*. *Force majeure*, for the purposes of this Consent Order, is defined as any event,  
27 arising from causes beyond the control of MCSWMD or its authorized representatives which delays



1 or prevents the performance of any obligation under this Consent Order and which could not have  
2 been overcome or prevented by MCSWMD. The financial inability of MCSWMD to comply with  
3 the terms of this Consent Order, shall not constitute a *force majeure*.

4 B. In the event of a *force majeure*, the time for performance of the activity affected by  
5 the *force majeure* shall be determined by ADEQ and extended for a period no longer than the delay  
6 caused by the *force majeure*. The time for performance of any activity dependent on the delayed  
7 activity shall be similarly extended. In the event of a *force majeure*, MCSWMD shall notify ADEQ  
8 in writing within five (5) calendar days after MCSWMD or its agents become aware of the  
9 occurrence. The written notice provided to ADEQ shall describe in detail the event, the anticipated  
10 delay, the measures taken and to be taken by MCSWMD to prevent or minimize delay, and a  
11 proposed timetable under which those measures will be implemented. MCSWMD shall take all  
12 reasonable measures to prevent or minimize any delay caused by the *force majeure*. Failure of  
13 MCSWMD to comply with any requirements of this paragraph for a particular event, shall preclude  
14 MCSWMD from asserting any claim of *force majeure* for that event.

#### 15 16 **VIII. SITE ACCESS**

17 ADEQ may at any time, upon presentation of credentials to authorized personnel on duty,  
18 enter upon the premises at the Facility for the purpose of observing and monitoring compliance with  
19 the provisions of this Consent Order. This right of entry shall be in addition to, and not in limitation  
20 of or substitution for, ADEQ's rights under applicable law.

#### 21 22 **IX. CORRESPONDENCE**

23 All documents, materials, plans, notices, or other items submitted as a result of this Consent  
24 Order shall be transmitted to the addresses specified below:  
25  
26  
27  
28

1 To ADEQ:

2 Arizona Department of Environmental Quality  
3 Solid Waste Inspections & Compliance Unit  
4 Attention: Jennifer Edwards  
5 1110 West Washington Street  
6 Phoenix, Arizona 85007-2935  
7 Telephone: (602)771-4140

8 To Maricopa County Solid Waste Management Department

9 Maricopa County Department of Solid Waste  
10 Attention: Bill Thornton, Division Manager  
11 2801 W. Durango Street  
12 Phoenix, Arizona 85009  
13 Telephone: (602)506-7336

14 Submissions to ADEQ as a result of this Consent Order shall be deemed submitted upon receipt.

#### 15 **X. RESERVATION OF RIGHTS**

16 A. This Consent Order is based solely upon currently available information. If additional  
17 information is discovered, which indicates that the actions taken under this Consent Order are or will  
18 be inadequate to protect human health, safety, or the environment, or to conform with applicable  
19 federal or state laws, ADEQ shall have the right to require further action.

20 B. ADEQ shall have the right: to pursue civil penalties for violations of any and all  
21 violations of A.R.S. Title 49, or the rules promulgated thereunder, occurring before entry of this  
22 Consent Order; to disapprove of work performed by MCSWMD that fails to comply with this  
23 Consent Order; to take enforcement action for any and all violations of this Consent Order; and to  
24 take enforcement action for any and all violations of A.R.S. Title 49, or the rules promulgated  
25 thereunder, occurring after the entry of this Consent Order.

26 C. With respect to the terms and conditions of this Consent Order, MCSWMD waives  
27 all rights to the informal appeals process as described in A.R.S. § 49-1091, including an informal  
28 appeal of an approval, disapproval, or evaluation within the discretion of ADEQ.

#### 29 **XI. SEVERABILITY**

1 The provisions of this Consent Order are severable. If any provision of this Consent Order  
2 is declared by a court of law to be invalid or unenforceable, all other provisions of this Consent Order  
3 shall remain in full force and effect.

#### 4 **XII. MODIFICATIONS**

5 Any modifications of this Consent Order shall be in writing and must be approved by both  
6 MCSWMD and ADEQ.

#### 7 **XIII. EFFECTIVE DATE**

8 The effective date of this Consent Order shall be the date this Consent Order is signed by  
9 ADEQ and MCSWMD. If such signatures occur on different dates, the later date shall be the effective  
10 date of this Consent Order.

#### 11 **XIV. PARTIES BOUND**

12 No change in ownership, corporate status, or partnership status relating to the subject of this  
13 Consent Order will in any way alter the responsibilities of MCSWMD under this Consent Order.  
14 MCSWMD will be responsible, and will remain responsible, for carrying out all activities required  
15 under this Consent Order.

#### 16 **XV. TERMINATION**

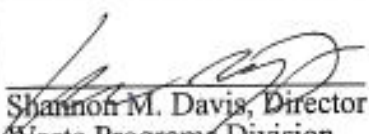
17 The provisions of this Consent Order shall be deemed satisfied and this Consent Order shall  
18 be terminated upon receipt of written notification from ADEQ that MCSWMD has demonstrated, to  
19 the satisfaction of ADEQ, that all of the terms of this Consent Order have been completed. Any  
20 denial of a request for termination from MCSWMD will be in writing and describe which terms of the  
21 Consent Order have not been completed to the satisfaction of ADEQ. ADEQ reserves the right to  
22 terminate this Consent Order unilaterally at any time for any reason. Any termination will include a  
23 written explanation of the reason(s) for termination.

#### 24 **XVI. REPLACEMENT OF 1999 CONSENT ORDER**

25 The Consent Order replaces in its entirety the consent Order of the same docket number  
26 executed by the parties and effective August 15, 1999.



1  
2  
3  
4 ISSUED this 28 day of June, 2005.

5  
6   
Shannon M. Davis, Director  
Waste Programs Division  
7 Arizona Department of Environmental Quality

8  
9 **CONSENT TO ORDER**

10 The undersigned, on behalf of MCSWMD, hereby acknowledges that he has read the foregoing  
11 Consent Order in its entirety, agrees with the statements made therein, consents to its entry and  
12 issuance by the Arizona Department of Environmental Quality, agrees that MCSWMD will abide by  
13 the same and waive any right to appeal therefrom.

14 DATED this 8<sup>th</sup> day of June, 2005.

15  
16   
17 Max Wilson District 4  
Chairman of Maricopa County Board of Supervisors  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 ORIGINAL of the foregoing Consent Order was filed this 29th day of June, 2005,  
2 with:

3 Judith Fought, Hearing Administrator  
4 Office of Administrative Counsel  
5 Arizona Department of Environmental Quality  
6 1110 West Washington Street  
7 Phoenix, Arizona 85007-2935

8 COPY of the foregoing Consent Order was sent certified mail, return receipt requested, this 29th  
9 day of June, 2005, to:

10 Max Wilson, Chairman of the Board of Supervisors  
11 District 4, Maricopa County  
12 Attn: County Clerk  
13 301 West Jefferson Street  
14 Phoenix, Arizona 85003

15 COPIES of the foregoing Consent Order were sent by regular/interdepartmental mail, this 29th  
16 day of June, 2005, to the following:

17 Mark Horlings, Chief Counsel  
18 Environmental Enforcement Section, Office of the Attorney General  
19 1275 West Washington  
20 Phoenix, Arizona 85007

21 Kim McDaniel, Manager  
22 Solid Waste Inspection & Compliance Unit  
23 Arizona Department of Environmental Quality  
24 1110 West Washington Street  
25 Phoenix, Arizona 85007

26 Kevin Costello, Esq.  
27 Maricopa County Deputy Attorney  
28 222 N. Central Ave., Suite 1100  
Phoenix, Arizona 85004